REMARKS

Reconsideration of the above-identified application is respectfully requested in view of the above amendments and the following remarks.

Applicant has amended the claims to incorporate the subject matter of claim 3, 5 and 7 into independent claims 1, 6 and 11, and urges that the present amendments do not constitute new matter.

The Examiner has rejected claims 1, 2 and 4 under 35 U.S.C. §102(b) over Fechtner, and claims 1, 2, 4, 6, 8-11 and 13 under 35 U.S.C. §102(b) over Baxter. Applicant urges that the present amendments obviate the alleged anticipation of the claimed invention by Fechtner and Baxter.

The Examiner has further rejected claims 3 and 5 under 35 U.S.C. §103(a) over Fechtner in combination with Ushikubo, and claims 3, 5, 7 and 12 under 35 U.S.C. §103(a) over Baxter alone, and in combination with Ushikubo. Applicant respectfully traverses these bases for rejection of the claims.

The present invention is directed to a reagent vial and associated adapter which provides for access to the contained reagents and access to the information content of the label by an automated processing device which consolidates both the reagent probe and the label reader in the same module. See, for example, Figure 4 of the present specification. In this manner, the present reagent vial is useful in an automated processing device in which the device "head" operates in three dimensions, while insuring that the probe is sampling the reagent container whose label is identified and read by the label reader.

In contrast, the combination of Fechtner, Baxter and Ushikubo does not provide the benefits of the present reagent vial and adapter. For example, the access to the label feature of Ushikubo is provided on a different surface from the access to the reagent (see Figures 5A and 6A), and thus does not permit access to both features simultaneously by a consolidated module or "head." Similarly, the adapter of Baxter does not disclose a receptacle portion that is configured to accept a vial which provides access to both features simultaneously, as the Baxter adapter is only configured to accept a vial where the entire upper surface is the reagent access means, leaving no provision for the labeling function. Fechtner does not remedy the deficiencies of the combination described above, as the relevance of the Fechtner disclosure is limited to providing "wells" for reducing the

residual reagent volume in the reagent container.

Thus, the present invention provides a reagent vial, adapter and system which is not disclosed in the cited prior art, or any combination thereof, and provides the benefits of various features in the prior art together with the ability to access both the reagents and the label information by a consolidated module or "head" operating in three dimensions in an automated processing device. Thus it is urged that the present invention is neither anticipated nor rendered obvious by the prior art of Fechtner, Baxter and Ushikubo, nor by any combination thereof.

Based upon the above amendments and remarks, Applicant respectfully requests the Examiner to pass this case to issue.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicant's undersigned attorney invites the Examiner to telephone him at the number provided.

Respectfully submitted,

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By: _____

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